IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.82/98

Smt. Kamroon **Versus** Kamrudeen

DATE OF ORDER :: 04/10/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. V.S. Chauhan, for petitioner
Mr. N.A. Naqvi, for respondent

***

Instant petition has been filed by petitioner-wife assailing the order dated 24th October, 1997 whereby Revisional Court has set aside the order dated 25th November, 1994 – as a consequence whereof, the talak between the parties upheld by learned trial Judge became non-effective and she does not became entitle for mehar and other dowry articles to which she became entitled for u/s.3 of Muslim Women [Protection of Rights on Divorce] Act, 1986.

The marriage between the parties took place on 6th May, 1987 and from this wedlock, two sons were born. Petitioner filed application u/s.3 of the Act in which it was alleged that divorce between them took place on 26th June, 1992, as such she became entitled for mehar and maintenance for the said period and also prayed for return of dowry articles. Learned trial Judge

partly allowed her application vide order dated 25th November, 1994 and it was directed that she is entitled for maintenance and mehar u/s.3 of the Act, 1986. Since her claim was partly rejected, she preferred revision petition for partly rejection of her claim. At the same time, respondent-husband also preferred revision in regard to partly relief which was accepted by learned trial Judge. Both the revision petitions were disposed of by common judgment vide order dated 24th October, 1997 while rejecting the revision petition preferred by petitioner and accepting the revision petition of respondent herein and upheld that there was no talaq which has taken place between the parties - as such her application filed u/s.3 of the Act, 1986 was not maintainable.

I have considered the submissions of counsel for parties and perused the order impugned.

Learned trial Judge has given cogent reasons and has taken note of material while holding that there was talaq between the parties on 26th June, 1992 and this court is of the opinion that Court of Revision has completely misread the material on record and the very finding recorded by Court of Revision holding that there was no talak between the parties, is not legally sustainable and the same deserves to be set aside.

Accordingly, the present misc. petition stands allowed and the order of Court of Revision dated 24th October, 1997 is hereby quashed and set aside. Record be sent back to trial court.

[AJAY RASTOGI],J.

FRBOHRA,JR.P.A.82CMP1998 4-10.doc